

# Exhibit 8

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018

1-4

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF NORTH DAKOTA</p> <p>3 NORTHWESTERN DIVISION</p> <p>4</p> <p>5 NORTHERN BOTTLING CO., INC., )</p> <p>6 Plaintiff, )</p> <p>7 vs. ) No. 4:150-cv-133</p> <p>8 PEPSICO, INC., )</p> <p>9 Defendant. )</p> <p>10</p> <p>11 The videotaped 30(b)(6) deposition of</p> <p>12 PEPSICO, INC., by DARRIN MORRIS, called for</p> <p>13 examination, taken pursuant to the Federal Rules of</p> <p>14 Civil Procedure of the United States District</p> <p>15 Courts pertaining to the taking of depositions,</p> <p>16 taken before KRISTIN C. BRAJKOVICH, a Certified</p> <p>17 Shorthand Reporter, CSR. No. 84-3810, of said</p> <p>18 state, at Suite 2900, Three First National Plaza,</p> <p>19 70 West Madison Street, Chicago, Illinois, on the</p> <p>20 22nd day of March, A.D. 2018, at 9:39 a.m.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 3</p> <p>1 PRESENT (Continued):</p> <p>2 RILEY SAFER HOLMES &amp; CANCELA LLP,</p> <p>3 (Three First National Plaza,</p> <p>4 70 West Madison Street,</p> <p>5 Chicago, Illinois 60602,</p> <p>6 1-312-471-8770), by:</p> <p>7 MR. THOMAS B. QUINN,</p> <p>8 tqinn@rshc-law.com, and</p> <p>9 MS. PATRICIA MATHY,</p> <p>10 pmathy@rshc-law.com,</p> <p>11 appeared on behalf of the Defendant.</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 MR. CHARLES S. BIENER, PepsiCo, Inc., Senior</p> <p>15 Counsel;</p> <p>16 MS. ANA M. McCARRON, PepsiCo, Inc., Senior</p> <p>17 Legal Specialist;</p> <p>18 MR. MARIO MERCURIO, PepsiCo, Inc., Senior</p> <p>19 Vice President, GM, Franchise Business Unit;</p> <p>20 MS. ELIZABETH VAN HOUTEN, Director, Franchise</p> <p>21 Development, Transshipping Mitigation.</p> <p>22 MR. DAVID LEHMAN, Legal Videographer.</p> <p>23</p> <p>24 REPORTED BY: KRISTIN C. BRAJKOVICH, No. 84-3810.</p>
<p style="text-align: right;">Page 2</p> <p>1 PRESENT:</p> <p>2</p> <p>3 RAGAIN &amp; COOK, PC,</p> <p>4 (3936 Avenue B, Suite A-2,</p> <p>5 Billings, Montana 59102,</p> <p>6 1-406-206-4831), by:</p> <p>7 MR. JAMES M. RAGAIN,</p> <p>8 jim@lawmontana.com,</p> <p>9 -and-</p> <p>10 SULLIVAN MILLER LAW,</p> <p>11 (3860 Avenue B, Suite C East,</p> <p>12 Billings, Montana 59102,</p> <p>13 1-406-403-7066), by:</p> <p>14 MS. MICHELLE SULLIVAN,</p> <p>15 michelle.sullivan@sullivanmiller.com,</p> <p>16 appeared via video teleconference on</p> <p>17 behalf of the Plaintiff;</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: I'm the videographer on</p> <p>2 March 22, 2018, for the recording of the deposition</p> <p>3 of Darrin Morris at the time of 9:39 a.m.</p> <p>4 MR. QUINN: Yes. This is Thomas Quinn on</p> <p>5 behalf of PepsiCo. As I indicated to Mr. Ragain at</p> <p>6 the break, Mr. Morris is going to testify to the</p> <p>7 subject matter of Topics 1, 2, 4, and 6 of the</p> <p>8 Rule 30(b)(6) deposition notice with respect to the</p> <p>9 time period going back in time from approximately</p> <p>10 midsummer, July of 2016, to the earlier points in</p> <p>11 time.</p> <p>12 MR. RAGAIN: Tom, just so that I'm clear, then</p> <p>13 you are proffering another witness for roughly</p> <p>14 mid-July of 2016 forward to the present to the</p> <p>15 extent the time period in the topic calls for --</p> <p>16 well, to whatever time period that is the end of</p> <p>17 the time period for each topic?</p> <p>18 MR. QUINN: That's right.</p> <p>19 MR. RAGAIN: Okay. Thanks.</p> <p>20 DARRIN MORRIS,</p> <p>21 called as a witness herein, having been first duly</p> <p>22 sworn, was examined and testified as follows:</p> <p>23</p> <p>24</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
5-8

<p style="text-align: right;">Page 5</p> <p>1 EXAMINATION</p> <p>2 BY MR. RAGAIN:</p> <p>3 Q. Good morning, Mr. Morris.</p> <p>4 A. Good morning.</p> <p>5 MR. RAGAIN: Has the witness been sworn?</p> <p>6 THE REPORTER: No.</p> <p>7 (WHEREUPON, the witness was duly</p> <p>8 sworn.)</p> <p>9 BY MR. RAGAIN:</p> <p>10 Q. Mr. Morris, we have met before, correct?</p> <p>11 A. We did, that's correct.</p> <p>12 Q. Is it okay if I call you Darrin?</p> <p>13 A. Sure.</p> <p>14 Q. All right. Thank you. Darrin, would</p> <p>15 you agree with me that you have been proffered by</p> <p>16 the company, PepsiCo, to testify with respect to</p> <p>17 the first topic, which is administration of the</p> <p>18 PepsiCo Transshipment Enforcement Program, the</p> <p>19 types of documentation that are kept or not kept,</p> <p>20 and any changes to the PepsiCo PTEP for the time</p> <p>21 period 2008 through mid-July of 2016?</p> <p>22 A. That's correct.</p> <p>23 Q. And is the -- what is the reason for</p> <p>24 the -- the time period that we asked for was for</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Well, as of 2008 the general process for</p> <p>2 the program was that if product was found in a</p> <p>3 bottler's territory that was not sold or</p> <p>4 distributed by that bottler, they would report</p> <p>5 findings to the transshipping department. The</p> <p>6 transshipping department would dispatch an</p> <p>7 investigator to go out and validate such product.</p> <p>8 We would then process a fine to the source bottler</p> <p>9 for that product, and we would issue a credit to</p> <p>10 the -- what we refer to as the infringed bottler.</p> <p>11 Q. And for the time period that we are</p> <p>12 talking about for your testimony, 2008 through</p> <p>13 2016, how many --</p> <p>14 MR. QUINN: Jim, just to correct, say early --</p> <p>15 mid-2016 --</p> <p>16 MR. RAGAIN: Okay.</p> <p>17 MR. QUINN: -- so as long as we understand</p> <p>18 that, I won't keep interrupting, but -- and I</p> <p>19 think if you say 2016 to Darrin, then we are</p> <p>20 talking about through the period that he was in</p> <p>21 that position, and that will be fine, if it's okay</p> <p>22 with you.</p> <p>23 MR. RAGAIN: Okay. Yeah, I'll try to qualify,</p> <p>24 but if I slip up, we have that understanding, that</p>
<p style="text-align: right;">Page 6</p> <p>1 all of the way to 2017, and what is the reason why</p> <p>2 your knowledge stops in July?</p> <p>3 A. Because in April, May of 2016, I</p> <p>4 transferred into a different position out of the</p> <p>5 transshipping role.</p> <p>6 Q. Okay. And it's my understanding that</p> <p>7 you have that same limitation with respect to each</p> <p>8 of the other three topics that you are going to</p> <p>9 testify to today. Just for the sake of expediency,</p> <p>10 would the reason be the same?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Thanks. What is the PepsiCo</p> <p>13 Transshipment Enforcement Program?</p> <p>14 A. Well, that program is -- that acronym is</p> <p>15 used both for the program that governs the</p> <p>16 unauthorized movement of product from one territory</p> <p>17 to another, and it also refers to the database or</p> <p>18 software program that we use to manage that</p> <p>19 process.</p> <p>20 Q. Just for frame of reference, when was</p> <p>21 the -- am I correct that the administration of</p> <p>22 the -- scratch that.</p> <p>23 As of 2008 how did the transshipment</p> <p>24 enforcement program operate?</p>	<p style="text-align: right;">Page 8</p> <p>1 it's through mid-July of 2016.</p> <p>2 BY MR. RAGAIN:</p> <p>3 Q. Darrin, how many -- for the time period</p> <p>4 that we are talking about, how many people at</p> <p>5 PepsiCo -- and I mean companywide -- worked in the</p> <p>6 transshipment enforcement program?</p> <p>7 A. Let me answer that this way. So there</p> <p>8 were -- there were three people -- I'm sorry -- two</p> <p>9 people in -- in the immediate transshipping</p> <p>10 department who interacted with -- with that process</p> <p>11 on a day-to-day basis. Of course, there's a</p> <p>12 hierarchy that included several others which</p> <p>13 would -- which would be a senior director that had</p> <p>14 broader responsibility, so that would be three on</p> <p>15 PepsiCo's team.</p> <p>16 And then if we extended that to PBC,</p> <p>17 there was a team of people that would be</p> <p>18 involved on -- in the transshipping process on a</p> <p>19 day-to-day basis. And I couldn't tell you how many</p> <p>20 that would include, but it was several.</p> <p>21 Q. Could you generally tell me what the</p> <p>22 roles of these various people were?</p> <p>23 A. Well, so we -- I would start with --</p> <p>24 start with myself, and that role was to manage the</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
9-12

<p style="text-align: right;">Page 9</p> <p>1 program, which included ensuring the -- you know, 2 the efficient investigation of any claims that were 3 brought forward by a bottler. It would include the 4 efficient disbursement of fines and credits to the 5 impacted bottlers, and then I would say it also 6 included developing and working within the 7 organization to develop strategies for how we might 8 mitigate some of those issues. 9 Reporting to me at that time, there was 10 an analyst who would handle more of the 11 administrative side of the process, which included 12 database management. 13 Q. And who was the third person at PepsiCo? 14 A. The third person was the person that I 15 reported into. At the time it was Jim Foderaro. 16 Q. And what was Mr. Foderaro's role or 17 responsibility with respect to the transshipment 18 enforcement program? 19 A. Jim spent a lot of his time working at a 20 senior level within -- across the bottler 21 organizations in addition to helping to strategize 22 on, you know, mitigation of the infringements that 23 I referred to earlier. 24 Q. And can you give me an idea of what some</p>	<p style="text-align: right;">Page 11</p> <p>1 A. No. The only change that triggered 2 would have been the combining of PBG and PAS 3 organizations to reflect the new organization being 4 PBC. 5 Q. So under the program were independent 6 bottlers required to notify the company if they 7 found product of another bottler in their 8 territory? 9 A. If they desired to be compensated for 10 that infringement, yes. More broadly speaking, no, 11 they were not required to report that. They were 12 certainly encouraged to report it if it did occur. 13 Q. And what about PBC bottlers, were they 14 required to report if they found product that was 15 manufactured by an independent bottler in their PBC 16 territory? 17 MR. QUINN: Let me just object to the form of 18 the question with respect to the reference to PBC 19 bottlers as vague and ambiguous. 20 BY THE WITNESS: 21 A. The same principles would apply. Our 22 department treated bottlers, whether they were 23 independent or PBC, agnostically. 24</p>
<p style="text-align: right;">Page 10</p> <p>1 of the PBC people that you referred to earlier, 2 what their role was in the process? 3 A. So on the PBC side, the starting point 4 would be, I guess, receiving the information that 5 we produced through PTEP, through the database 6 PTEP. They would take information received from 7 our department, process that through something we 8 call LTTS or the lot tracing and transshipment 9 program, which helped them to identify who the 10 product was initially sold to. 11 And from that, reports would be 12 generated, information would be shared with 13 respective regions and bottler units or bottling 14 units, and from there there would be various 15 actions taken that would have been contained within 16 the PBC organization, some of which we may have 17 access to in terms of updates. Many times we would 18 not. 19 Q. What changes were made to the 20 transshipment enforcement program, if any, because 21 of the -- scratch that. 22 When PBC began operating in 2010, did 23 that require -- or did that result in any changes 24 to the PepsiCo Transshipment Enforcement Program?</p>	<p style="text-align: right;">Page 12</p> <p>1 BY MR. RAGAIN: 2 Q. What documentation was generated during 3 the time period that you are familiar with with 4 regard to the enforcement of the transshipment 5 enforcement program? 6 A. That would include the claim details 7 that were generated from investigations as well as 8 the invoices associated with the fines and credits 9 distributed to the impacted bottlers. 10 Q. Was the data maintained -- I mean, was 11 it continued -- or excuse me. 12 Was the information kept on a historical 13 basis, or was it deleted after a time? 14 A. It was archived after a time, so we 15 would generally have access to data which could be 16 included in reporting going back to a certain 17 period. Generally, we would look back over a 18 three- to -- three- to four-year period to look at 19 trends, but at some point that data would be 20 archived just for the sake of, you know, data 21 storage. 22 Q. And can you tell me what kind of uses 23 that PepsiCo made of that data or that historical 24 data from time to time?</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
13-16

<p style="text-align: right;">Page 13</p> <p>1 A. Primarily to share it with bottlers. We</p> <p>2 would often have meetings with various bottler</p> <p>3 committee groups and we would share that</p> <p>4 information to update the organizations on sort of</p> <p>5 the state of transshipping and what the trends</p> <p>6 were.</p> <p>7 Q. And what were the discernible trends</p> <p>8 over the time period that we are talking about?</p> <p>9 A. As I recall, there was a -- sort of a</p> <p>10 peak in transshipping maybe in 2011. There was</p> <p>11 sort of a gradual trend upwards going back to --</p> <p>12 well, as far back as probably 2007 or '08. And</p> <p>13 then there was a reduction, a trend downward, for</p> <p>14 several years, and then it has gone up and down,</p> <p>15 and that has different causals but it can tend to</p> <p>16 go up and down.</p> <p>17 Q. What kind of causes?</p> <p>18 A. One in particular that comes to mind is</p> <p>19 a change in the fine. So in 2008 or '09, there was</p> <p>20 a -- there was an increase in the fine rate for</p> <p>21 20 ounce, and that fine increased from \$7 per case</p> <p>22 to \$11 per case, which would have naturally</p> <p>23 resulted in, you know, higher fines after that</p> <p>24 period.</p>	<p style="text-align: right;">Page 15</p> <p>1 that we could turn over the processing quicker,</p> <p>2 which we believed would enable source bottlers of</p> <p>3 any transshipped product to be able to act more</p> <p>4 quickly on information they received from our</p> <p>5 department.</p> <p>6 Q. And what do you mean by improved the</p> <p>7 automation of it?</p> <p>8 A. Well, so a lot of the process used to be</p> <p>9 manual, and over time we were able to allocate some</p> <p>10 IT resources to just improve the capabilities of</p> <p>11 the program. So our reporting was more efficient,</p> <p>12 our invoice processing became more efficient, and</p> <p>13 just to give you an example, from the point of an</p> <p>14 investigation to the time a bottler would be</p> <p>15 compensated for an infringement could take as many</p> <p>16 as -- you know, upwards of 18 weeks in some cases,</p> <p>17 depending on what market we were talking about.</p> <p>18 Generally speaking, I would say that was in the</p> <p>19 eight- to ten-week time frame, and we have been</p> <p>20 able to reduce that down to somewhere between two</p> <p>21 to three weeks.</p> <p>22 Q. Let's go to Topic No. 2, which is -- do</p> <p>23 you have a copy of the deposition exhibit -- or</p> <p>24 deposition notice?</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. And you say that increasing that fine</p> <p>2 caused a discernible trend downward in</p> <p>3 transshipping?</p> <p>4 A. No, actually just the opposite. It</p> <p>5 caused an upward trend in the fines associated with</p> <p>6 transshipping.</p> <p>7 Q. Okay. What changes have been made to</p> <p>8 the program since 2008?</p> <p>9 A. There really haven't been a lot -- well,</p> <p>10 let me -- let me ask for some clarification on</p> <p>11 that. Are you referring to the administration of</p> <p>12 the program or the database that is used to manage</p> <p>13 that program?</p> <p>14 Q. Both.</p> <p>15 A. There really haven't been material</p> <p>16 changes to the guidelines. I did mention the fine</p> <p>17 increase in 2008 or '09. Outside of that, the only</p> <p>18 real material changes have been an increase in the</p> <p>19 allotment of vending fines or the allocation of</p> <p>20 vending fines, so we expanded that to include</p> <p>21 more -- more SKUs.</p> <p>22 As far as the database PTEP portion of</p> <p>23 it, we have improved the automation quite a bit and</p> <p>24 improved the capabilities of the programming so</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. QUINN: Jim, I think we can get one in</p> <p>2 front of Darrin in a second.</p> <p>3 MR. RAGAIN: Thank you.</p> <p>4 MR. QUINN: Yeah, he has got it now. Just</p> <p>5 give him two seconds to take a look at it real</p> <p>6 quickly.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Okay.</p> <p>9 BY MR. RAGAIN:</p> <p>10 Q. And Topic No. 2 is one that you have</p> <p>11 also been proffered to testify by PepsiCo today?</p> <p>12 A. That's correct.</p> <p>13 Q. And what other -- other than the</p> <p>14 transshipment enforcement program, what other</p> <p>15 policies, procedures, rules, regulations, plans,</p> <p>16 and actions have been promulgated and/or</p> <p>17 implemented by PepsiCo for the purpose of</p> <p>18 preventing transshipment into the territories of</p> <p>19 independent bottlers outside of the northeastern</p> <p>20 United States?</p> <p>21 A. So as far as guidelines and policies, of</p> <p>22 course you mentioned the transshipment enforcement</p> <p>23 program. In addition to that, PBC has an employee</p> <p>24 and customer policy that was, I believe, originally</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
17-20

<p style="text-align: right;">Page 17</p> <p>1 written in 2010 and then updated in 2016. We also</p> <p>2 have a companywide code of conduct that includes</p> <p>3 language that prohibits any type of trade stuffing</p> <p>4 or overselling of accounts. And as far as</p> <p>5 additional contracts, I would say our customer</p> <p>6 contracts have language that prohibits a customer</p> <p>7 from selling product outside of its intended</p> <p>8 channel or territory.</p> <p>9 Q. Anything else?</p> <p>10 A. Well, as far as policies or guidelines,</p> <p>11 I think that covers the majority of those. The</p> <p>12 other actions, I would say, would include sort of</p> <p>13 the work involved in the day-to-day management of</p> <p>14 the program and then the mitigation efforts that we</p> <p>15 put forth, and I would probably start with -- you</p> <p>16 specified outside the northeast, right? Did I hear</p> <p>17 that correctly?</p> <p>18 Q. Yeah. For the purpose of preventing</p> <p>19 transshipment into the territories of independent</p> <p>20 bottlers located outside of the northeastern United</p> <p>21 States.</p> <p>22 A. Okay. So, you know, a lot of our</p> <p>23 mitigation effort would depend on the specific</p> <p>24 scenario. The one that relates most closely to the</p>	<p style="text-align: right;">Page 19</p> <p>1 understanding that subject to the time limitations</p> <p>2 we talked about earlier, you have been proffered to</p> <p>3 testify on that topic as well?</p> <p>4 A. That's correct.</p> <p>5 Q. Okay. Can you explain how PepsiCo's</p> <p>6 soft drink product tracking system works?</p> <p>7 A. So every container receives a production</p> <p>8 code on that container. On cans, it's on the</p> <p>9 bottom of the can. On bottles, it's typically on</p> <p>10 the shoulder of the bottle. Those individual</p> <p>11 bottles or cans are then packaged into a case. In</p> <p>12 many cases it's 24 units to a case, and then those</p> <p>13 cases are palletized further down the production</p> <p>14 process.</p> <p>15 At the end of that production process,</p> <p>16 where those cases are then palletized, a -- what we</p> <p>17 call a license plate or a pallet tag is applied to</p> <p>18 that pallet, which is intended to represent the</p> <p>19 collection of production codes on that pallet.</p> <p>20 From that point, whenever that pallet moves from</p> <p>21 that facility or into the mass storage, the</p> <p>22 forklift operator that handles that product is to</p> <p>23 scan that pallet tag and indicate where that</p> <p>24 product is moving to next.</p>
<p style="text-align: right;">Page 18</p> <p>1 Northern situation, we actually set up a -- what we</p> <p>2 refer to as a sting operation, so we suspected a</p> <p>3 certain customer of being the source of product</p> <p>4 that made its way into Northern's territory, and we</p> <p>5 set up an operation whereby we quarantined a</p> <p>6 certain run of product. And any time the suspected</p> <p>7 customer ordered that particular SKU, then we would</p> <p>8 only pull from that lot of product to supply that</p> <p>9 customer. And we then waited for the product to be</p> <p>10 found in other territories and measured whether or</p> <p>11 not they were, in fact, the culprit.</p> <p>12 Q. And what did you find in that particular</p> <p>13 case?</p> <p>14 A. In that case we found that they were the</p> <p>15 source of transshipped product but that product did</p> <p>16 not make its way up to Northern, or at least at</p> <p>17 that point it had -- if at one point it was the</p> <p>18 Northern product, then at least in this scenario it</p> <p>19 was not found to be making its way to Northern. In</p> <p>20 fact, it stopped. The product came out of South</p> <p>21 Florida, and it stopped in the Tennessee area.</p> <p>22 Q. Mr. Morris, Topic No. 6 for today was</p> <p>23 PepsiCo's product tracking system for the period</p> <p>24 January 2010 to the present, and it's my</p>	<p style="text-align: right;">Page 20</p> <p>1 The purpose of that program is to be</p> <p>2 able to track the pallet one step removed from the</p> <p>3 threshold of the facility.</p> <p>4 Q. And what do you mean by that?</p> <p>5 A. Well, so the program originated as part</p> <p>6 of the -- I think it was the 2010 Bioterrorism Act,</p> <p>7 which required food and beverage manufacturers to</p> <p>8 be able to track its product one step beyond its</p> <p>9 door. So the original intent was to be able to do</p> <p>10 that, and we were able to use that same program for</p> <p>11 aiding the tracking of product as it related to</p> <p>12 transshipments.</p> <p>13 Q. So prior to 2010 you didn't have any</p> <p>14 tracking system?</p> <p>15 A. No, there were tracking systems. They</p> <p>16 just weren't as sophisticated as the current</p> <p>17 system.</p> <p>18 Q. Okay. And I'm going to just -- again,</p> <p>19 for the sake of expediency, I think you have</p> <p>20 testified before that with the LTT -- and this is</p> <p>21 the LTTS system that you are referring to?</p> <p>22 A. That's correct.</p> <p>23 Q. How accurate is the system?</p> <p>24 A. Well, it's as accurate as the input, so</p>



PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
21-24

<p style="text-align: right;">Page 21</p> <p>1 as long as the -- as long as the pallets are tagged</p> <p>2 and the codes are read with a fair amount of</p> <p>3 accuracy, then I would say there's between a -- I</p> <p>4 would say that there's up to a 60 percent chance</p> <p>5 that if the product -- if an individual bottle or</p> <p>6 can is found in the market somewhere, we have about</p> <p>7 at least a 60 percent chance of being able to</p> <p>8 identify where that product was first sold to.</p> <p>9 Q. Okay. And how did you arrive at the</p> <p>10 60 percent figure, and how do you go about the</p> <p>11 process of determining where the product came from?</p> <p>12 A. Well, it's based on information shared</p> <p>13 with me from PBC, so as we have tried to compare</p> <p>14 some of the data that we have in PTEP with some of</p> <p>15 the data that may have been shared with us from</p> <p>16 PBC, what we have generally found is that there's</p> <p>17 anywhere from 40 to, you know, 50 or 60 percent</p> <p>18 that is considered nontraceable. And, again, this</p> <p>19 is product that has made its way through the value</p> <p>20 chain and we have now identified it in the market</p> <p>21 somewhere and we are trying to backtrack through</p> <p>22 the system to identify where it was first sold.</p> <p>23 Q. And why would this 40 percent be</p> <p>24 nontraceable?</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. And is that true or not true?</p> <p>2 A. I would say it's generally true, but</p> <p>3 there could be variances to it.</p> <p>4 Q. And explain to me these variances.</p> <p>5 A. Well, again, it's driven by the</p> <p>6 commingling of product. So as an example, if</p> <p>7 there's any amount of line stoppage or anything</p> <p>8 that causes any amount of accumulation on either</p> <p>9 the accumulation table that I mentioned or the</p> <p>10 warmer, you are going to have commingling of</p> <p>11 product.</p> <p>12 Q. Are we talking about commingling of ten</p> <p>13 bottles and cans, or are we talking commingling of</p> <p>14 a thousand or what?</p> <p>15 A. Thousands. So as an example, bottle</p> <p>16 fillers can run at speeds anywhere from 600 bottles</p> <p>17 per minute up to 1,200 bottles per minute, and</p> <p>18 these would be fed initially single file but then</p> <p>19 eventually they would be commingled on one of those</p> <p>20 accumulation points that I mentioned.</p> <p>21 Q. So how do you take the data -- when</p> <p>22 Northern makes a complaint, how do you take the</p> <p>23 data, and just run me through the process of how</p> <p>24 you try and figure out where the product was first</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Well, because of the -- it has a lot to</p> <p>2 do with the production process, so I mentioned</p> <p>3 earlier that each container receives its own</p> <p>4 production code and that is done in single file</p> <p>5 fashion. But further down the production process,</p> <p>6 those codes are commingled, so we have what is</p> <p>7 called a warmer, which is a very large table that</p> <p>8 accumulates product on it. We also have an</p> <p>9 accumulation table that allows for a certain amount</p> <p>10 of commingling of those production codes.</p> <p>11 So once that -- once those individual</p> <p>12 containers are packaged into a case and then</p> <p>13 subsequently collected onto a pallet, there is</p> <p>14 quite a bit of commingling of production codes on</p> <p>15 that pallet.</p> <p>16 Q. What does the license plate that goes on</p> <p>17 the pallet purport to represent?</p> <p>18 A. So it represents -- the operator looks</p> <p>19 at a production code on the bottom of that pallet</p> <p>20 as well as one on the top of the pallet, and the</p> <p>21 assumption is that the production minutes</p> <p>22 between -- or the production minutes between the</p> <p>23 top and the bottom represent what is on that</p> <p>24 pallet.</p>	<p style="text-align: right;">Page 24</p> <p>1 sold?</p> <p>2 A. Okay. So in Northern's case, it would</p> <p>3 have started with a complaint. That complaint</p> <p>4 would have been investigated by a third-party</p> <p>5 investigator who would send that production code</p> <p>6 information to our transshipping department. We</p> <p>7 would then share that information through the claim</p> <p>8 details that I mentioned with PBC and -- or any</p> <p>9 other bottler that may have been the source of that</p> <p>10 initial product, and we can tell who the source is</p> <p>11 by a plant code. It's a two-letter plant code that</p> <p>12 is a part of the production code.</p> <p>13 So that is the starting point, and from</p> <p>14 there we can look at the time and date stamps and</p> <p>15 try to tie that back to product that was palletized</p> <p>16 and either sent to a customer or sent to another</p> <p>17 warehouse, whether internal or external to another</p> <p>18 bottler, or it could have been put into mass</p> <p>19 storage and shipped out at some point later.</p> <p>20 Q. Well, if it's put into mass storage,</p> <p>21 it's still tracked, correct?</p> <p>22 A. Still tracked until it is then moved</p> <p>23 from mass storage out to one of those other</p> <p>24 destinations, be it direct to a customer -- and,</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
25-28

<p style="text-align: right;">Page 25</p> <p>1 generally speaking, your customers who are going to</p> <p>2 receive full pallet quantities are going to be</p> <p>3 larger customers like in the club channel, in some</p> <p>4 cases grocery, but generally it's going to be your</p> <p>5 larger customers. It could be a third-party</p> <p>6 operator. It could be another PBC or independent</p> <p>7 bottler plant.</p> <p>8 Q. So in Northern's case, what information</p> <p>9 would you need about the product to determine at</p> <p>10 what stage in the sales and distribution process</p> <p>11 that the product was diverted?</p> <p>12 A. I'm sorry. Can you restate that? The</p> <p>13 video broke up just a little bit.</p> <p>14 Q. I'm sorry. In Northern's case, knowing</p> <p>15 what you know about it, what information would you</p> <p>16 have to have to be able to determine where the</p> <p>17 product -- at what point in the product process the</p> <p>18 product was diverted?</p> <p>19 MR. QUINN: Jim, it broke up again for some</p> <p>20 reason when you got to product and the word</p> <p>21 "process."</p> <p>22 MR. RAGAIN: I think it didn't -- yeah, it</p> <p>23 didn't break up. My question broke up.</p> <p>24 MR. QUINN: Oh, okay.</p>	<p style="text-align: right;">Page 27</p> <p>1 back to what?</p> <p>2 A. Back to a particular customer.</p> <p>3 Q. Okay. What else?</p> <p>4 A. So from that point, you know, we had the</p> <p>5 starting point of the product and we had the end</p> <p>6 point of the product, which was Northern's</p> <p>7 territory. Nothing in between is transparent to</p> <p>8 us.</p> <p>9 So the starting point -- let's say in</p> <p>10 this case it was PBC that had the customer contact.</p> <p>11 They would investigate the likelihood that that</p> <p>12 customer was selling the product outside of its</p> <p>13 territory, and, you know, typically you would hear</p> <p>14 that they were not, that they were not selling it</p> <p>15 outside of their territory or the intended channel.</p> <p>16 So from there it's very difficult to</p> <p>17 track where the product went and how it got to</p> <p>18 Northern's territory.</p> <p>19 Q. Okay. What is a channel -- well, what</p> <p>20 is a channel, just so we have that?</p> <p>21 A. Well, a channel would be a segment of</p> <p>22 the business -- of our business, so we have -- as</p> <p>23 an example, we have the convenience and gas channel</p> <p>24 or the C&amp;G channel, often referred to as small</p>
<p style="text-align: right;">Page 26</p> <p>1 BY MR. RAGAIN:</p> <p>2 Q. In Northern's case, what information</p> <p>3 would you need to be able to determine at what</p> <p>4 point in the sales and distribution process that</p> <p>5 the product was diverted?</p> <p>6 A. Let me answer it this way. So we would</p> <p>7 start with the production code. In fact, we would</p> <p>8 have to have several production codes in hopes that</p> <p>9 they would all tie back to the same customer that</p> <p>10 the product was originally sold to.</p> <p>11 From there it can be very difficult to</p> <p>12 figure out the lane that the product took to make</p> <p>13 its way to Northern's territory. So in the example</p> <p>14 of the South Florida product, we determined that</p> <p>15 the product was produced at a particular plant, and</p> <p>16 we collected enough data points that suggested it</p> <p>17 was sold to a particular customer.</p> <p>18 Q. Okay. Now, what is a data point?</p> <p>19 A. A data point would be any number of</p> <p>20 production codes. So if over the course of, say,</p> <p>21 two months we collected, you know, 30 cases of</p> <p>22 production codes, we would try to tie those back to</p> <p>23 a particular customer.</p> <p>24 Q. I'm sorry. It broke up there. Tie that</p>	<p style="text-align: right;">Page 28</p> <p>1 format. We have the drug channel, which is going</p> <p>2 to include your stores like Walgreens, CVS,</p> <p>3 et cetera. We have a grocery channel, which would</p> <p>4 include your grocery accounts.</p> <p>5 Q. Just to -- I guess because we are going</p> <p>6 to start running into this topic as well. You have</p> <p>7 also been proffered to testify with respect to</p> <p>8 Topic No. 4, PepsiCo, Inc.'s, investigation of all</p> <p>9 transshipping complaints made by plaintiff and the</p> <p>10 result thereof for the time period January 2012 --</p> <p>11 A. Okay.</p> <p>12 Q. -- through mid-July of 2016?</p> <p>13 A. Sure.</p> <p>14 Q. Is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. Thank you.</p> <p>17 So let's -- rather than talk about this</p> <p>18 in the abstract, let's talk about it in terms of</p> <p>19 Northern's complaints. How many complaints did</p> <p>20 Northern make?</p> <p>21 A. I don't recall the exact number, but I</p> <p>22 do recall that initially there were only, I think,</p> <p>23 two or three in a year. That may have been -- that</p> <p>24 may have actually been 2015. I believe prior to</p>



PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
29-32

<p style="text-align: right;">Page 29</p> <p>1 that if there were -- there was maybe one 2 complaint, if even that, going back to 2012. 3 Q. So how do you characterize what is a 4 complaint? I mean, is every time -- every time 5 they update you with respect to what is going on in 6 their territory, or what is a complaint? 7 A. Yes. We consider a complaint when 8 there's an official request for an investigation to 9 take place in the market. 10 Q. And with respect to the time period that 11 we are talking about here, can you tell me when 12 those complaints were made by Northern? 13 A. When they were made? Can you be more 14 specific? 15 Q. What date they were made. 16 A. No, I could -- we could probably produce 17 that information, but I wouldn't know that. 18 Q. Okay. Let's start from the other end 19 then. As we sit here today, have you ever -- has 20 PepsiCo ever been able to determine where the 21 product and by whom the product was diverted that 22 was sold in Northern territory? 23 A. Can I confer with counsel briefly? 24 MR. QUINN: If you are worried that it relates</p>	<p style="text-align: right;">Page 31</p> <p>1 the tools that you have and the information that 2 you have through the LTTS system, the PTEP program, 3 were you ever able to determine who you believed 4 the diverter of the product or diverters of the 5 product was? 6 A. We were not. 7 Q. I realize you may have already said some 8 of this when we were talking about the system in 9 the abstract, but can you tell me why not? In 10 Northern's specific case, why you were not able to 11 make that determination? 12 A. Well, I would say for a couple of 13 reasons. One was that even when we quarantined 14 product and sold it to the customer that we 15 believed to be the source of the transshipped 16 product, it didn't prove out. And so, again, we 17 knew that that customer was the source of 18 transshipped product in other territories, but it 19 wasn't in Northern's or at least at that point in 20 time it was no longer in Northern's. 21 The other thing that happened is that 22 the production source of product that made its way 23 into Northern's territory changed, so it moved from 24 a South Florida production site to other production</p>
<p style="text-align: right;">Page 30</p> <p>1 to privileged information, then we can discuss it. 2 THE WITNESS: Yeah, it was privileged. 3 MR. QUINN: Okay. Just take a quick break 4 then to make sure that we don't divulge any 5 privilege. 6 THE VIDEOGRAPHER: We are off the record. The 7 time is 10:25 a.m. 8 (WHEREUPON, a recess was had.) 9 THE VIDEOGRAPHER: We are back on the record. 10 The time is 10:26 a.m. 11 BY THE WITNESS: 12 A. Jim, could you repeat that question, 13 please. 14 BY MR. RAGAIN: 15 Q. I think what it was was, have you ever 16 been able to determine at what -- have you ever 17 been able to determine the diverter of the product 18 or diverters of the product that ended up in 19 Northern's territory? 20 A. Yeah. I actually learned who that 21 diverter was as a result of reviewing a deposition 22 from, I believe it was Nick Frisone -- Nick or 23 Vinny Frisone with L&amp;V Distributors. 24 Q. Okay. Have you -- but using -- using</p>	<p style="text-align: right;">Page 32</p> <p>1 sites, some of which were in the Midwest. I 2 believe some came out of the northeast, so the 3 transshipping lane itself changed at some point. 4 Q. So as we sit here today, if I'm correct, 5 using the tools at your disposal, you have never 6 been able to determine who the diverter or 7 diverters were of the product that was sold in 8 Northern's territory, correct? 9 MR. QUINN: Objection, mischaracterizes his 10 testimony. 11 BY THE WITNESS: 12 A. How would you define "the diverter"? 13 BY MR. RAGAIN: 14 Q. Good question. And I apologize for not 15 making that clear. 16 The first purchaser that sold the 17 product outside of his territory or -- outside of 18 their territory or channel. 19 A. I think we had compelling evidence to 20 identify certain customers or at least during the 21 time that is in question here. We felt strongly 22 that certain customers were likely sources of that 23 product, but we still couldn't identify how it made 24 its way to Northern's territory.</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
33-36

<p style="text-align: right;">Page 33</p> <p>1 Q. Well, did you ever discuss that with --</p> <p>2 who was the customer that you thought -- or</p> <p>3 customers that you felt were responsible?</p> <p>4 A. So Vistar in Florida was the customer</p> <p>5 that we believed to be the source.</p> <p>6 Q. Is that the only one?</p> <p>7 A. At the time that is where the most</p> <p>8 compelling evidence was, was with Vistar.</p> <p>9 Q. So what did you do with respect to</p> <p>10 Vistar?</p> <p>11 A. Well, so my role was to make sure that</p> <p>12 the impacted bottlers had the information, you</p> <p>13 know, through the claim detail process that we</p> <p>14 talked about earlier, and then working directly</p> <p>15 with PBC, we shared the findings of this sting</p> <p>16 operation. And then the region leadership in the</p> <p>17 southeast region, and specifically South Florida,</p> <p>18 took it upon themselves to have a discussion with</p> <p>19 Vistar. They did take actions that resulted in</p> <p>20 price increases, allocations, and I believe for a</p> <p>21 period of time they were actually shut off from</p> <p>22 receiving product.</p> <p>23 Q. Do you believe they were?</p> <p>24 A. Yeah. The actual details of the</p>	<p style="text-align: right;">Page 35</p> <p>1 MR. RAGAIN: Yes.</p> <p>2 THE VIDEOGRAPHER: We are off the record. The</p> <p>3 time is 10:34 a.m.</p> <p>4 (WHEREUPON, a recess was had.)</p> <p>5 THE VIDEOGRAPHER: We are back on the record.</p> <p>6 The time is 10:48 a.m.</p> <p>7 BY MR. RAGAIN:</p> <p>8 Q. Mr. Morris, just a clean-up matter here.</p> <p>9 Topic No. 2 on the deposition notice actually had</p> <p>10 two parts to it, and I asked you about the first</p> <p>11 part. And I'll read it all here for you, but --</p> <p>12 I'll just read it now, Other than the transshipment</p> <p>13 enforcement program, any and all policies,</p> <p>14 procedures, rules, regulations, plans, and actions</p> <p>15 promulgated and/or implemented by PepsiCo, Inc.,</p> <p>16 during the specified time period that, one, are for</p> <p>17 the purpose of preventing transshipment into the</p> <p>18 territories of independent bottlers who are outside</p> <p>19 of the northeastern United States or, two, that</p> <p>20 will otherwise be offered by PepsiCo at trial.</p> <p>21 I asked you to list off for me the items</p> <p>22 that were included in the first parenthetical</p> <p>23 there, and I'm assuming they are the same, but tell</p> <p>24 me if I'm wrong.</p>
<p style="text-align: right;">Page 34</p> <p>1 allocations, I would not have had direct privy to</p> <p>2 that information, but there was -- I know there was</p> <p>3 a significant reduction in shipments that went to</p> <p>4 Vistar.</p> <p>5 Q. For how long?</p> <p>6 A. That I don't know.</p> <p>7 Q. Anybody else besides Vistar that you</p> <p>8 determined to any reasonable degree of certainty</p> <p>9 was a diverter of the product that ended up in</p> <p>10 Northern's territory?</p> <p>11 A. Not that we identified, but the region</p> <p>12 leadership with PBC did take similar actions with</p> <p>13 another customer by the name of Culinary Ventures,</p> <p>14 and I couldn't speak to the findings they used to,</p> <p>15 you know, support that action. But I do know</p> <p>16 similar action was taken around the same time as</p> <p>17 Vistar's.</p> <p>18 MR. RAGAIN: Let's take a quick break, Tom, if</p> <p>19 that is okay.</p> <p>20 MR. QUINN: Sure.</p> <p>21 MR. RAGAIN: Let me look at my notes a little</p> <p>22 bit and talk to Michelle.</p> <p>23 MR. QUINN: Sounds good. Come back in five or</p> <p>24 ten?</p>	<p style="text-align: right;">Page 36</p> <p>1 Are you aware of any policy, procedure,</p> <p>2 rule, regulation, plan, or action promulgated or</p> <p>3 implemented by PepsiCo that you -- that the company</p> <p>4 intends to offer at the trial of this case that you</p> <p>5 have not listed off for me?</p> <p>6 A. I don't think that I have. The only</p> <p>7 thing that I may have not spelled out is that</p> <p>8 the -- while the policy -- the transshipping</p> <p>9 guidelines exist, we did communicate those</p> <p>10 guidelines to the bottling system, which would have</p> <p>11 included PBC. So, you know, the policy, as I said,</p> <p>12 it exists, but we also would share or reiterate</p> <p>13 that policy with the bottling system periodically.</p> <p>14 MR. RAGAIN: Okay. Thank you.</p> <p>15 MR. QUINN: Jim, I have a couple --</p> <p>16 MR. RAGAIN: That is all I have.</p> <p>17 MR. QUINN: Okay. I have just a couple of</p> <p>18 clarification questions with respect to Darrin's</p> <p>19 testimony.</p> <p>20 EXAMINATION</p> <p>21 BY MR. QUINN:</p> <p>22 Q. I would like to direct you back to the</p> <p>23 whole description that you had of the process of</p> <p>24 tagging pallets at plants, PBC bottling plants,</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
37-40

<p style="text-align: right;">Page 37</p> <p>1 with the labels that are then used to -- through 2 the LTTS system to try to determine the first 3 purchaser of product from a PBC region. 4 A. Uh-huh. 5 Q. And I know you talked about the 6 commingling that can occur. Would you also 7 describe for us what pallets actually get tagged 8 with these labels and which pallets do not? 9 A. So any full pallet would be tagged. 10 Once that pallet was disassembled and used for, 11 let's say, a conventional route, which would be a 12 delivery that would be made to a, you know, small 13 format store that I mentioned earlier, those 14 products would not have a tag associated with it. 15 Q. What about a pallet that contains a 16 mixture of different products such as Mountain Dew, 17 Pepsi Cola or the like or diet products, would 18 those pallets that have mixed products receive a 19 tag? 20 A. They would not. So that would be 21 considered a mixed pallet or a -- that sounds like 22 what we consider a bulk order that is going to be 23 shipped to a customer. Those would not have a 24 pallet tag.</p>	<p style="text-align: right;">Page 39</p> <p>1 back to PBC or the independent bottler that tells 2 them where that product was going next. 3 And so if product is subsequently found 4 in a territory where it shouldn't be, really all we 5 have access to is the starting point and the ending 6 point, and typically the bottler in the infringed 7 territory will have some idea of who delivered that 8 product to that account. 9 In this case, it was Core-Mark. So, 10 again, we know the beginning point and we know the 11 ending point, but everything in between, there 12 could be multiple hands that touch that product 13 before it made its way to the final destination. 14 Q. In your experience, do customers that 15 purchase product from PBC and then -- whether it's 16 a third-party operator or club store or others, do 17 customers have systems for tracking sales to 18 subsequent customers down the line typically or 19 not? 20 A. I have heard that some do, and I would 21 say your -- what I would consider a more 22 sophisticated customers, that might have a larger 23 supply chain itself, but, generally speaking, I 24 would say no.</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. And how about in the case of a pallet 2 that contained products that would be going to more 3 than one customer on a route, would that be tagged? 4 A. So it's possible to actually have two 5 pallet tags that were similar that went to two 6 different customers. 7 Q. Okay. 8 A. And, again, that ties back into the -- 9 kind of the commingling nature of the process. So 10 it's not an exact science, but it's currently the 11 best that's available. 12 Q. Okay. You also testified in response to 13 Mr. Ragain's question regarding the process of 14 investigation that nothing between the starting 15 point of -- if you know who is the first purchaser 16 from a PBC plant to the end point of actual 17 transshipment into a bottler territory, that 18 nothing in between is really transparent. Could 19 you explain what you meant by that? 20 A. Yeah, sure. So once the product leaves 21 the PBC doorstep or any bottler's doorstep, for 22 that matter, they would have visibility to the next 23 destination. From there there's no required 24 tracking or reporting from the customer to report</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. So in your experience, what has happened 2 when a PBC person or a key account manager contacts 3 a customer that may show up as a source of 4 transshipped product, when the topic of who did you 5 sell it to comes up? 6 A. In many cases they will say, I have no 7 idea, if they are asked. It depends on how the 8 question is phrased. If the question is, Did you 9 sell product outside of the territory, that is 10 going to be generally a yes or no question, and I 11 would say more often than not the answer is no. 12 And they may be telling the truth, that they sold 13 it within the territory. They may also suggest 14 that they did not sell it outside of a channel that 15 they were not permitted to sell it. 16 So we just -- we lose visibility to how 17 that product moves around once it gets into the 18 customer's possession. 19 Q. Now, you also mentioned, in response to 20 one of Mr. Ragain's questions, that you had a 21 chance to read the Frisone deposition in this case. 22 Did that deposition offer any insights to you 23 regarding the manner in which diverters like 24 Frisone or L&amp;V actually come to acquire the Pepsi</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
41-44

<p style="text-align: right;">Page 41</p> <p>1 product that ultimately gets transshipped?</p> <p>2 A. Yeah, absolutely. Absolutely. I would</p> <p>3 have never guessed that two large companies like a</p> <p>4 Vistar and a Core-Mark would have worked with an</p> <p>5 intermediary like a Nick Frisone or L&amp;V</p> <p>6 Distributors to acquire and assemble product. That</p> <p>7 just wasn't something that we would have expected.</p> <p>8 Q. And what about the quantities of</p> <p>9 products that Frisone was able to assemble to</p> <p>10 ultimately meet the orders for product?</p> <p>11 A. So I gathered from his deposition that</p> <p>12 it wasn't always easy. He would often have to go</p> <p>13 to different sources on what is often referred to</p> <p>14 as the wire to find this product and assemble it,</p> <p>15 enough to put together an order for Core-Mark. Or,</p> <p>16 in fact, I think there was another party between</p> <p>17 L&amp;V Distributors and Core-Mark that touched the</p> <p>18 product, so it was a very labor intensive effort,</p> <p>19 it appeared.</p> <p>20 Q. Okay. So does that complexity add any</p> <p>21 degree of difficulty to the whole process of trying</p> <p>22 to detect and prevent transshipment?</p> <p>23 A. Sure, sure. Absolutely. So, again, we</p> <p>24 have access to the beginning point and the end</p>	<p style="text-align: right;">Page 43</p> <p>1 STATE OF ILLINOIS )</p> <p>2 ) SS:</p> <p>3 COUNTY OF C O O K )</p> <p>4 I, KRISTIN C. BRAJKOVICH, a Certified</p> <p>5 Shorthand Reporter of said state, do hereby</p> <p>6 certify:</p> <p>7 That previous to the commencement of the</p> <p>8 examination of the witness, the witness was duly</p> <p>9 sworn to testify the whole truth concerning the</p> <p>10 matters herein;</p> <p>11 That the foregoing deposition transcript</p> <p>12 was reported stenographically by me,</p> <p>13 was thereafter reduced to typewriting under my</p> <p>14 personal direction and constitutes a true record</p> <p>15 of the testimony given and the proceedings had;</p> <p>16 That the said deposition was taken</p> <p>17 before me at the time and place specified;</p> <p>18 That I am not a relative or employee</p> <p>19 or attorney or counsel, nor a relative or</p> <p>20 employee of such attorney or counsel for any of</p> <p>21 the parties hereto, nor interested directly or</p> <p>22 indirectly in the outcome of this action.</p> <p>23 IN WITNESS WHEREOF, I do hereunto set my</p> <p>24 hand and affix my seal of office at Chicago,</p>
<p style="text-align: right;">Page 42</p> <p>1 point, but once the product is out in the open</p> <p>2 market, it is very difficult to track, especially</p> <p>3 when you are talking about individual containers or</p> <p>4 cases because in many cases -- in many situations,</p> <p>5 the product is not moving in pallet quantities,</p> <p>6 which is what we are able to best -- best track.</p> <p>7 MR. QUINN: No further questions.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. RAGAIN: Nothing else. Thank you,</p> <p>10 Mr. Morris.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 MR. QUINN: So Jim -- off the record.</p> <p>13 THE VIDEOGRAPHER: This marks the end of</p> <p>14 today's deposition. The time is 10:59 a.m. We are</p> <p>15 now off the record.</p> <p>16 FURTHER DEPONENT SAITH NOT.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 44</p> <p>1 Illinois, this 3rd day of April, 2018.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 C.S.R. Certificate No. 84-3810.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
45-48

<p>1 INDEX</p> <p>2 WITNESS EXAMINATION</p> <p>3 DARRIN MORRIS</p> <p>4 By Mr. Ragain 5</p> <p>5 By Mr. Quinn 36</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>10 NUMBER PAGE</p> <p>11 NONE.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	Page 45	<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change To: _____</p> <p>4 Reason for Change: _____</p> <p>5 Page No. _____ Line No. _____ Change To: _____</p> <p>6 Reason for Change: _____</p> <p>7 Page No. _____ Line No. _____ Change To: _____</p> <p>8 Reason for Change: _____</p> <p>9 Page No. _____ Line No. _____ Change To: _____</p> <p>10 Reason for Change: _____</p> <p>11 Page No. _____ Line No. _____ Change To: _____</p> <p>12 Reason for Change: _____</p> <p>13 Page No. _____ Line No. _____ Change To: _____</p> <p>14 Reason for Change: _____</p> <p>15 Page No. _____ Line No. _____ Change To: _____</p> <p>16 Reason for Change: _____</p> <p>17 Page No. _____ Line No. _____ Change To: _____</p> <p>18 Reason for Change: _____</p> <p>19 Page No. _____ Line No. _____ Change To: _____</p> <p>20 Reason for Change: _____</p> <p>21 Page No. _____ Line No. _____ Change To: _____</p> <p>22 Reason for Change: _____</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 DARRIN MORRIS</p>	Page 47
<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Our Assignment No. J0595213</p> <p>4 Case Caption: Northern Bottling Co., Inc., vs.</p> <p>5 PepsiCo, Inc.</p> <p>6</p> <p>7 DECLARATION UNDER PENALTY OF PERJURY</p> <p>8</p> <p>9 I declare under penalty of perjury that</p> <p>10 I have read the entire transcript of my deposition</p> <p>11 taken in the captioned matter or the same has been</p> <p>12 read to me, and the same is true and accurate, save</p> <p>13 and except for changes and/or corrections, if any,</p> <p>14 as indicated by me on the DEPOSITION ERRATA SHEET</p> <p>15 hereof, with the understanding that I offer these</p> <p>16 changes as if still under oath.</p> <p>17</p> <p>18 Signed on the _____ day of</p> <p>19 _____, 20_____.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 _____</p> <p>24 DARRIN MORRIS</p>	Page 46	<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change To: _____</p> <p>4 Reason for Change: _____</p> <p>5 Page No. _____ Line No. _____ Change To: _____</p> <p>6 Reason for Change: _____</p> <p>7 Page No. _____ Line No. _____ Change To: _____</p> <p>8 Reason for Change: _____</p> <p>9 Page No. _____ Line No. _____ Change To: _____</p> <p>10 Reason for Change: _____</p> <p>11 Page No. _____ Line No. _____ Change To: _____</p> <p>12 Reason for Change: _____</p> <p>13 Page No. _____ Line No. _____ Change To: _____</p> <p>14 Reason for Change: _____</p> <p>15 Page No. _____ Line No. _____ Change To: _____</p> <p>16 Reason for Change: _____</p> <p>17 Page No. _____ Line No. _____ Change To: _____</p> <p>18 Reason for Change: _____</p> <p>19 Page No. _____ Line No. _____ Change To: _____</p> <p>20 Reason for Change: _____</p> <p>21 Page No. _____ Line No. _____ Change To: _____</p> <p>22 Reason for Change: _____</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 DARRIN MORRIS</p>	Page 48



PEPSICO, INC.  
NORTHERN BOTTLING vs PEPSICO

March 22, 2018  
46

DEPOSITION ERRATA SHEET

Our Assignment No. J0595213

Case Caption: Northern Bottling Co., Inc., vs.  
PepsiCo, Inc.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that  
I have read the entire transcript of my deposition  
taken in the captioned matter or the same has been  
read to me, and the same is true and accurate, save  
and except for changes and/or corrections, if any,  
as indicated by me on the DEPOSITION ERRATA SHEET  
hereof, with the understanding that I offer these  
changes as if still under oath.

Signed on the 27<sup>th</sup> day of

April, 2018.



DARRIN MORRIS

ERRATA SHEET

CASE: NORTHERN BOTTLING VS. PEPSICO INC.

DATE: MARCH 22, 2018

WITNESS: DARRIN MORRIS

<u>PAGE</u>	<u>LINES</u>	<u>FROM</u>	<u>TO</u>	<u>REASON FOR CHANGE</u>
9	15	reported into.	reported to.	mistranscription
39	21	I would consider a more	I would consider more	mistranscription